



Patricia Kakalec  
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January 28, 2019

The Hon. Kenneth M. Karas  
United States Courthouse  
300 Quarropas Street  
White Plains, NY 10601-4150

BY ECF

Re: *Aguirre v. Torino Pizza, Inc.*, 18-CV-2004 (KMK)

Dear Judge Karas:

My office, along with the Worker Justice Center of New York, Inc., represents the Plaintiff Marlon Aguirre in the above-referenced Fair Labor Standards Act case.

On December 17, 2018, the parties in this case submitted a signed settlement agreement to the Court, seeking approval of the settlement in accordance with *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015). (Docket # 19.) By Order dated January 8, 2019 (Docket # 20), the Court denied the parties' application without prejudice based on the release in the agreement. The Court's Order stated that the parties "may reapply for approval of a settlement that appropriately narrows the release provision to apply only to the wage-and-hour-related conduct underlying this lawsuit." (Order at 10.)

The parties have agreed to new release language and have signed a new settlement agreement incorporating this language. The language limits Mr. Aguirre's release to "all claims under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, and the New York Labor Law raised by Mr. Aguirre in the District Court Action, the Bankruptcy, and the Adversary Proceeding," referring to both claims in this action and the same claims brought in connection with the bankruptcy case of Defendant Francis Vacante. Defendants' release of the Plaintiff is similarly limited. The new paragraphs are on the 4<sup>th</sup> page of the agreement, labeled by error as (a) and (b) rather than (5) and (6). In all other respects, this agreement is the same as that previously submitted to the Court.

A motion to approve the settlement in Bankruptcy Court is scheduled for tomorrow in front of Chief Judge Morris.

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For the reasons set forth in the Court's prior Order and considering this revised language, the settlement here is fair and reasonable, and all parties ask that it be approved by the Court.

Very truly yours,

A handwritten signature in black ink, appearing to read "Patricia Kakalec", with a stylized, flowing script.

Patricia Kakalec  
*Counsel for Plaintiff*